

Senate File 2166 - Introduced

SENATE FILE 2166
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 3056)

A BILL FOR

1 An Act relating to the Iowa health information network,
2 providing for fees, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.154, Code 2011, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 01. "*Advisory council*" means the electronic
4 health information advisory council created in section 135.156.

5 NEW SUBSECTION. 001. "*Authorized*" means having met the
6 requirements as a participant for access to and use of the Iowa
7 health information network.

8 NEW SUBSECTION. 2A. "*Exchange*" means the authorized
9 electronic sharing of health information between health care
10 professionals, payors, consumers, public health agencies, the
11 department, and other authorized participants utilizing the
12 Iowa health information network and Iowa health information
13 network services.

14 NEW SUBSECTION. 2B. "*Executive committee*" means the
15 executive committee of the electronic health information
16 advisory council created in section 135.156.

17 NEW SUBSECTION. 3A. "*Health information*" means health
18 information as defined in 45 C.F.R. § 160.103 that is created
19 or received by an authorized participant.

20 NEW SUBSECTION. 4A. "*Health Insurance Portability and*
21 *Accountability Act*" means the federal Health Insurance
22 Portability and Accountability Act of 1996, Pub. L. No.
23 104-191, including amendments thereto and regulations
24 promulgated thereunder.

25 NEW SUBSECTION. 4B. "*Hospital*" means licensed hospital as
26 defined in section 135B.1.

27 NEW SUBSECTION. 4C. "*Individually identifiable health*
28 *information*" means individually identifiable health information
29 as defined in 45 C.F.R. § 160.103 that is created or received
30 by an authorized participant.

31 NEW SUBSECTION. 5A. "*Iowa health information network*" or
32 "*network*" means the statewide health information technology
33 network created in this division.

34 NEW SUBSECTION. 5B. "*Iowa Medicaid enterprise*" means the
35 Iowa Medicaid enterprise as defined in section 249J.3.

1 NEW SUBSECTION. 5C. "*Participant*" means an authorized
2 health care professional, payor, patient, health care
3 organization, public health agency, or the department that
4 has agreed to authorize, submit, access, or disclose health
5 information through the Iowa health information network in
6 accordance with this chapter and all applicable laws, rules,
7 agreements, policies, and standards.

8 NEW SUBSECTION. 5D. "*Patient*" means a person who has
9 received or is receiving health services from a health care
10 professional.

11 NEW SUBSECTION. 5E. "*Payor*" means a person who makes
12 payments for health services, including but not limited to an
13 insurance company, self-insured employer, government program,
14 individual, or other purchaser that makes such payments.

15 NEW SUBSECTION. 5F. "*Protected health information*" means
16 protected health information as defined in 45 C.F.R. § 160.103
17 that is created or received by an authorized participant.

18 NEW SUBSECTION. 5G. "*Public health agency*" means an
19 entity that is governed by or contractually responsible to a
20 local board of health or the department to provide services
21 focused on the health status of population groups and their
22 environments.

23 NEW SUBSECTION. 5H. "*Purchaser*" means any individual,
24 employer, or organization that purchases health insurance or
25 services and includes intermediaries.

26 Sec. 2. Section 135.155, subsection 2, unnumbered paragraph
27 1, Code 2011, is amended to read as follows:

28 To be effective, the Iowa health information ~~technology~~
29 ~~system~~ network shall comply with all of the following
30 principles:

31 Sec. 3. Section 135.155, subsection 3, Code 2011, is amended
32 to read as follows:

33 3. Widespread adoption of health information technology is
34 critical to a successful Iowa health information ~~technology~~
35 ~~system~~ network and is best achieved when all of the following

1 occur:

2 *a.* The market provides a variety of certified products from
3 which to choose in order to best fit the needs of the user.

4 *b.* The ~~system~~ network provides incentives for health care
5 professionals to utilize the health information technology and
6 provides rewards for any improvement in quality and efficiency
7 resulting from such utilization.

8 *c.* The ~~system~~ network provides protocols to address critical
9 problems.

10 *d.* The ~~system~~ network is financed by all who benefit from
11 the improved quality, efficiency, savings, and other benefits
12 that result from use of health information technology.

13 Sec. 4. NEW SECTION. 135.155A Findings and intent — Iowa
14 health information network.

15 1. The general assembly finds all of the following:

16 *a.* Technology used to support health care-related functions
17 is known as health information technology. Health information
18 technology provides a mechanism to transform the delivery of
19 health and medical care in Iowa and across the nation.

20 *b.* A health information network involves the secure
21 electronic sharing of health information across the boundaries
22 of individual practice and institutional health settings and
23 with consumers. Broad use of health information technology and
24 a health information network should improve health care quality
25 and the overall health of the population, increase efficiencies
26 in administrative health care, reduce unnecessary health care
27 costs, and help prevent medical errors.

28 2. It is the intent of the general assembly that Iowa
29 establish a statewide health information technology network.
30 The Iowa health information network shall not constitute a
31 health benefit network or a health insurance network. Nothing
32 in this division shall be interpreted to impede or preclude the
33 formation and operation of regional, population-specific, or
34 local health information networks or their participation in the
35 Iowa health information network.

1 Sec. 5. Section 135.156, subsection 1, paragraphs a and b,
2 Code Supplement 2011, are amended to read as follows:

3 a. The department shall direct a public and private
4 collaborative effort to promote the adoption and use of health
5 information technology in this state in order to improve
6 health care quality, increase patient safety, reduce health
7 care costs, enhance public health, and empower individuals
8 and health care professionals with comprehensive, real-time
9 medical information to provide continuity of care and make
10 the best health care decisions. The department shall provide
11 coordination for the development and implementation of an
12 interoperable electronic health records system, telehealth
13 expansion efforts, the health information technology
14 infrastructure, the Iowa health information network, and other
15 health information technology initiatives in this state.
16 The department shall be guided by the principles and goals
17 specified in section 135.155 and the findings and intent
18 specified for an Iowa health information network in section
19 135.155A.

20 b. All health information technology efforts shall endeavor
21 to represent the interests and meet the needs of consumers and
22 the health care sector, protect the privacy of individuals
23 and the confidentiality of individuals' information, promote
24 physician best practices, and make information easily
25 accessible to the appropriate parties. The ~~system~~ network
26 developed shall be consumer-driven, flexible, and expandable.

27 Sec. 6. Section 135.156, subsection 2, paragraph a, Code
28 Supplement 2011, is amended to read as follows:

29 a. An electronic health information advisory council is
30 established which shall consist of the representatives of
31 entities involved in the electronic health records system task
32 force established pursuant to section 217.41A, Code 2007, a
33 pharmacist, a licensed practicing physician, a consumer who
34 is a member of the state board of health, a representative
35 of the state's Medicare quality improvement organization,

1 the executive director of the Iowa communications network, a
2 representative of the private telecommunications industry, a
3 representative of the Iowa collaborative safety net provider
4 network created in section 135.153, a nurse informaticist from
5 the university of Iowa, and any other members the department
6 or executive committee of the advisory council determines
7 necessary and appoints to assist the department or executive
8 committee at various stages of development of the ~~electronic~~
9 Iowa health information system network. Executive branch
10 agencies shall also be included as necessary to assist in the
11 duties of the department and the executive committee. Public
12 members of the advisory council shall receive reimbursement
13 for actual expenses incurred while serving in their official
14 capacity only if they are not eligible for reimbursement by
15 the organization that they represent. Any legislative members
16 shall be paid the per diem and expenses specified in section
17 2.10.

18 Sec. 7. Section 135.156, subsection 3, paragraph a,
19 subparagraphs (6) and (10), Code Supplement 2011, are amended
20 to read as follows:

21 (6) Policies relating to governance of the various facets of
22 the Iowa health information ~~technology system~~ network.

23 (10) Economic incentives and support to facilitate
24 participation in an interoperable ~~system~~ network by health care
25 professionals.

26 Sec. 8. Section 135.156, subsection 3, paragraph c,
27 unnumbered paragraph 1, Code Supplement 2011, is amended to
28 read as follows:

29 Coordinate public and private efforts to provide the
30 network backbone infrastructure for the Iowa health information
31 ~~technology system~~ network. In coordinating these efforts, the
32 executive committee shall do all of the following:

33 Sec. 9. Section 135.156, subsection 3, paragraphs h and i,
34 Code Supplement 2011, are amended to read as follows:

35 *h.* Seek and apply for any federal or private funding to

1 assist in the implementation and support of the Iowa health
2 ~~information technology system~~ network and make recommendations
3 for funding mechanisms for the ongoing development and
4 maintenance costs of the Iowa health information technology
5 ~~system~~ network.

6 *i.* Identify state laws and rules that present barriers
7 to the development of the Iowa health information technology
8 ~~system~~ network and recommend any changes to the governor and
9 the general assembly.

10 Sec. 10. NEW SECTION. 135.156A **Iowa health information**
11 **network — business and financial sustainability plan and**
12 **participant fees.**

13 1. The board, with the support of the department and
14 the advice of the executive committee and advisory council,
15 shall establish and annually review and update a business and
16 financial sustainability plan for the Iowa health information
17 network. The plan shall include fees to be paid to the
18 department by participants who choose to access and use the
19 Iowa health information network. The participant fee schedule
20 shall be structured using fair share, value-based principles.

21 2. The department shall update and submit a financial model,
22 including fee schedule, revenue and expense projections, and a
23 budget, to the executive committee and the board for approval
24 on an annual basis.

25 Sec. 11. NEW SECTION. 135.156B **Iowa health information**
26 **network — duties of the department.**

27 The department shall do all of the following:

28 1. Develop, implement, and enforce the following, as
29 approved by the board:

30 *a.* Strategic, operational, and business and financial
31 sustainability plans for the Iowa health information network.

32 *b.* Standards, requirements, policies, and procedures for
33 access to and use, secondary use, and privacy and security
34 of health information exchanged through the Iowa health
35 information network, consistent with applicable federal and

1 state standards and laws.

2 *c.* Rules, policies, and procedures for monitoring
3 participant usage of the Iowa health information network and
4 enforcing compliance with applicable standards, requirements,
5 policies, rules, and procedures.

6 *d.* Policies and procedures for administering the
7 infrastructure, technology, and associated professional
8 services required for operation of the Iowa health information
9 network and the provision of services through the Iowa health
10 information network.

11 *e.* An annual budget and fiscal report for the business and
12 technical operations of the Iowa health information network
13 and an annual report for the Iowa health information network
14 and the services provided through the Iowa health information
15 network.

16 2. Provide human resources, budgeting, project and activity
17 coordination, and related management functions to the Iowa
18 health information network and the services provided through
19 the Iowa health information network.

20 3. Enter into participation agreements with participants in
21 the Iowa health information network.

22 4. Collect participant fees, record receipts and approvals
23 of payments, and file required financial reports.

24 5. Apply for, acquire by gift or purchase, and hold,
25 dispense, or dispose of funds and real or personal property
26 from any person, governmental entity, or organization in
27 the exercise of its powers or performance of its duties in
28 accordance with this division.

29 6. Select and contract with vendors of goods and services in
30 compliance with all applicable state and federal procurement
31 laws and regulations.

32 7. Work to align interstate and intrastate interoperability
33 standards in accordance with national health information
34 exchange standards.

35 8. Execute all instruments necessary or incidental to the

1 performance of its duties and the execution of its powers under
2 this division.

3 Sec. 12. NEW SECTION. 135.156C Iowa health information
4 network fund.

5 1. The Iowa health information network fund is created as a
6 separate fund within the state treasury under the control of
7 the board. Revenues, donations, gifts, interest, participant
8 fees, and other moneys received or generated relative to the
9 operation and administration of the Iowa health information
10 network shall be deposited in the fund.

11 2. Moneys in the fund are appropriated to and shall be
12 expended by the department only for activities and operations
13 suitable to the performance of the department's duties,
14 subject to executive committee review and board approval.
15 Disbursements may be made from the fund for purposes related
16 to the administration, management, operations, functions,
17 activities, or sustainability of the Iowa health information
18 network.

19 3. Notwithstanding section 12C.7, subsection 2, earnings
20 or interest on moneys deposited in the fund shall be credited
21 to the fund. Moneys in the fund at the end of each fiscal year
22 shall not revert to another fund but shall remain in the fund
23 for expenditure in subsequent fiscal years.

24 4. The moneys in the fund shall be subject to financial and
25 compliance audits by the auditor of state.

26 Sec. 13. NEW SECTION. 135.156D Technical infrastructure.

27 1. The Iowa health information network shall provide a
28 mechanism to facilitate and support the secure electronic
29 exchange of health information between participants.

30 2. The Iowa health information network shall not function as
31 a central repository of all health information.

32 3. The Iowa health information network shall provide a
33 mechanism for participants without an electronic health records
34 system to access health information from the Iowa health
35 information network.

1 Sec. 14. NEW SECTION. 135.156E Legal and policy.

2 1. Upon approval from the board, the department shall
3 implement appropriate security standards, policies, and
4 procedures to protect the transmission and receipt of
5 protected health information exchanged through the Iowa health
6 information network, which shall, at a minimum, comply with the
7 Health Insurance Portability and Accountability Act security
8 rule pursuant to 45 C.F.R. pt. 164, subpt. C, and shall reflect
9 all of the following:

10 *a.* Include authorization controls, including the
11 responsibility to authorize, maintain, and terminate a
12 participant's use of the Iowa health information network.

13 *b.* Require authentication controls to verify the identify
14 and role of the participant using the Iowa health information
15 network.

16 *c.* Include role-based access controls to restrict
17 functionality and information available through the Iowa health
18 information network.

19 *d.* Include a secure and traceable electronic audit system
20 to document and monitor the sender and the recipient of health
21 information exchanged through the Iowa health information
22 network.

23 *e.* Require standard participation agreements which
24 define the minimum privacy and security obligations of all
25 participants using the Iowa health information network and
26 services available through the Iowa health information network.

27 *f.* Include controls over access to and the collection,
28 organization, and maintenance of records and data for
29 purposes of research or population health that protect the
30 confidentiality of consumers who are the subject of the health
31 information.

32 2. A patient shall have the opportunity to decline exchange
33 of the patient's health information through the Iowa health
34 information network. A patient shall not be denied care or
35 treatment for declining to exchange the patient's health

1 information, in whole or in part, through the Iowa health
2 information network. The board shall provide by rule the means
3 and process by which patients may decline participation. The
4 means and process utilized under the rules shall minimize the
5 burden on patients and health care professionals.

6 3. Unless otherwise authorized by law or rule, a patient's
7 decision to decline participation means that none of the
8 patient's health information shall be accessible through the
9 record locator service function of the Iowa health information
10 network. A patient's decision to decline having health
11 information shared through the record locator service function
12 shall not limit a health care professional with whom the
13 patient has or is considering a treatment relationship from
14 sharing health information concerning the patient through
15 the secure messaging function of the Iowa health information
16 network.

17 4. A patient who declines participation in the Iowa health
18 information network may later decide to have health information
19 shared through the Iowa health information network. A patient
20 who is participating in the Iowa health information network may
21 later decline participation in the network.

22 5. A participant shall not release or use protected health
23 information exchanged through the Iowa health information
24 network for purposes unrelated to prevention, treatment,
25 payment, or health care operations unless otherwise authorized
26 or required by state or federal law. Participants shall
27 limit the use and disclosure of protected health information
28 for payment or health care operations to the minimum amount
29 required to accomplish the intended purpose of the use or
30 request, in compliance with the Health Insurance Portability
31 and Accountability Act and other applicable state or federal
32 law. Use or distribution of the information for a marketing
33 purpose, as defined by the Health Insurance Portability and
34 Accountability Act, is strictly prohibited.

35 6. The department and all persons using the Iowa health

1 information network are individually responsible for following
2 breach notification policies as provided by the Health
3 Insurance Portability and Accountability Act.

4 7. A participant shall not be compelled by subpoena, court
5 order, or other process of law to access health information
6 through the Iowa health information network in order to gather
7 records or information not created by the participant.

8 8. All participants exchanging health information and data
9 through the Iowa health information network shall grant to
10 other participants of the network a nonexclusive license to
11 retrieve and use that information in accordance with applicable
12 state and federal laws, and the policies, standards, and rules
13 established by the board.

14 9. The board shall establish by rule the procedures for a
15 patient who is the subject of health information to do all of
16 the following:

17 a. Receive notice of a violation of the confidentiality
18 provisions required under this division.

19 b. Upon request to the department, view an audit report
20 created under this division for the purpose of monitoring
21 access to the patient's health care information.

22 10. A health care professional who relies reasonably and
23 in good faith upon any health information provided through
24 the Iowa health information network in treatment of a patient
25 who is the subject of the health information shall be immune
26 from criminal or civil liability arising from any damages
27 caused by such reasonable, good-faith reliance. Such immunity
28 shall not apply to acts or omissions constituting negligence,
29 recklessness, or intentional misconduct.

30 11. A participant that has disclosed health information
31 through the Iowa health information network in compliance with
32 applicable law and the standards, requirements, policies,
33 procedures, and agreements of the network shall not be subject
34 to criminal or civil liability for the use or disclosure of the
35 health information by another participant.

1 12. Notwithstanding chapter 22, the following records shall
2 be kept confidential, unless otherwise ordered by a court or
3 consented to by the patient or by a person duly authorized to
4 release such information:

5 a. The protected health information contained in, stored in,
6 submitted to, transferred or exchanged by, or released from the
7 Iowa health information network.

8 b. Any protected health information in the possession of
9 the department due to its administration of the Iowa health
10 information network.

11 13. Unless otherwise provided in this division, when
12 using the Iowa health information network or a private health
13 information network maintained in this state that complies
14 with the privacy and security requirements of this chapter for
15 the purposes of patient treatment, a health care professional
16 or a hospital is exempt from any other state law that is
17 more restrictive than the Health Insurance Portability and
18 Accountability Act that would otherwise prevent or hinder the
19 exchange of patient information by the patient's health care
20 professional or hospital.

21 Sec. 15. NEW SECTION. 135.156F **Governance review.**

22 1. The governance structure as provided in this division
23 consisting of the department acting on behalf of the board
24 subject to executive committee review and board approval shall
25 continue during the term of the state health information
26 exchange cooperative agreement between the department and the
27 office of the national coordinator for health information
28 technology to address the development of standards, policies,
29 and procedures; dissemination of interoperability standards;
30 the installation, testing, and operation of the Iowa health
31 information network infrastructure; and the evolution of Iowa
32 health information network services to improve patient care for
33 the population.

34 2. During the final year of the term of the cooperative
35 agreement, the executive committee and the department shall

1 electronic sharing of health information. The bill provides
2 that it is the intent of the general assembly to establish
3 a statewide Iowa health information network, which is not
4 to constitute a health benefit network or health insurance
5 network; and is not to preclude the formation and operation
6 of regional, population-specific, or local health information
7 networks or their participation in the statewide network.

8 The bill provides that the state board of health (board),
9 with the support of the department of public health and the
10 advice of the existing electronic health information executive
11 committee and advisory council, is to establish and annually
12 review and update a business and financial sustainability
13 plan for the network. The plan shall include fees to be paid
14 by participants who access and use the network. The fee
15 schedule is to be structured using fair share and value-based
16 principles. The department is directed to update and submit
17 a financial model to the executive committee and the board
18 annually.

19 The bill specifies the duties of the department in the
20 day-to-day operations of the Iowa health information network.

21 The bill provides for the creation of a separate Iowa
22 health information network fund within the state treasury
23 under the control of the board. All revenues, donations,
24 gifts, interest, participant fees, and other moneys received or
25 generated relative to the network are to be deposited in the
26 fund. Moneys in the fund are appropriated to and are only to
27 be expended by the department on activities and operations of
28 the Iowa health information network, subject to board approval.
29 Moneys in the fund at the end of each fiscal year remain in the
30 fund. The fund is subject to financial and compliance audits
31 by the auditor of state.

32 The bill provides for the technical infrastructure of
33 the network. The network is to provide a mechanism to
34 facilitate and support the secure exchange of electronic health
35 information. The network is not to function as a central

1 repository of all health information, and is to provide a means
2 for participants without an electronic health record system to
3 access health information through the network.

4 The bill includes provisions relating to the legal and
5 policy aspects of the network. The bill authorizes the
6 department, with approval from the board, to develop security
7 standards, policies, and procedures to protect the transmission
8 and receipt of individually identifiable health information
9 shared through the network. These include: authorization
10 and authentication controls, role-based access, a secure and
11 traceable electronic audit system, use of participant and
12 data-sharing agreements, and controls over access, collection,
13 and maintenance of health information. These provisions
14 specify a patient's choice of participation in the Iowa
15 health information network, and the requirements for sharing
16 information in accordance with all other applicable state
17 and federal laws, including the federal Health Insurance
18 Portability and Accountability Act.

19 The bill provides that the governance structure as provided
20 in the bill consisting of the department acting on behalf
21 of the board, subject to executive committee review and
22 board approval, is to continue during the term of the state
23 health information exchange cooperative agreement between
24 the department and the office of the national coordinator
25 for health information technology to address the development
26 of standards, policies, and procedures; dissemination of
27 interoperability standards; the installation, testing, and
28 operation of the network infrastructure; and the evolution of
29 health information network services to improve patient care
30 for the population. During the final year of the term of the
31 cooperative agreement (March 2014), the executive committee and
32 the department are directed to review the governance structure,
33 operations of the network, and the business and financial
34 sustainability plan, and make recommendations to the board
35 regarding the future governance of the network.

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1 The bill directs the state board of health to adopt
2 rules within 12 months of the effective date of the bill to
3 provide the means and process by which patients may decline
4 participation in the network including health information
5 association with a specific visit.

6 The bill also directs the department of public health to
7 review the potential use, release, or disclosure of protected
8 health information for purposes of research and to submit
9 findings and recommendations to the general assembly within 12
10 months of the effective date of the bill.

11 The bill takes effect upon enactment.